

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Mr. Eric A. Konigsberg
41 Fifth Avenue
Apt. 12-C
New York City, NY 10003

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION
9th & Pennsylvania Ave., N.W.
Washington, D.C. 20535

and

U.S. DEPARTMENT OF JUSTICE
10th and Constitution, N.W.
Washington, D.C. 20530

Defendants

CASE NUMBER 1:02CV02428

JUDGE: Ellen Segal Huvelle

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 12/10/2002

COMPLAINT FOR INJUNCTIVE RELIEF

[Freedom of Information Act, 5 U.S.C. § 552]

JURISDICTION AND PARTIES

1. Plaintiff Eric A. Konigsberg ("Konigsberg") brings this action under the Freedom of Information Act ("the FOIA"), 5 U.S.C. § 552, as amended.

2. Konigsberg is a journalist who is under contract to HarperCollins to write a book on his great uncle, Harold Konigsberg ("H. Konigsberg"), an organized crime figure and FBI informant who confessed to at least 20 murders but was convicted of only one crime, and charged with only one other.

3. Defendant United States Department of Justice is an agency of the United States and has possession and control of records requested by Konigsberg which are the subject of this action.

4. Defendant Federal Bureau of Investigation ("FBI") is a component of the United States Department of Justice and has possession and control of records requested by Konigsberg which are the subject of this action.

FIRST CAUSE OF ACTION--FBI HEADQUARTERS

5. By letter dated June 3, 1999, Konigsberg, acting pro se, submitted a request to FBI Headquarters ("FBIHQ") for any or all documents relating to Harold Konigsberg.

6. By letter which appears to be dated July 11, 1999, FBIHQ acknowledged receipt of Konigsberg's request and assigned it FOIPA No. 900622.

7. By letter dated October 5, 1999, FBIHQ returned Konigsberg's request and asked him to provide either proof of death or a privacy waiver before it began processing records on H. Konigsberg.

8. By letter dated July 23, 2002, Konigsberg, through counsel, clarified and supplemented his June 3, 1999 request for records.

9. By letter dated August 19, 2002, FBIHQ returned Konigsberg's July 23rd letter to his counsel and advised him that records he requested were exempt from disclosure under FOIA exemptions 6 and 7(C), 5 U.S.C. § 552(b)(6) and (7)(C) unless he furnished a

privacy waiver, proof of death, or proof that H. Konigsberg was born more than 100 years ago.

10. By letter dated August 22, 2002, Konigsberg appealed the FBI's August 19, 2002, determination not to comply with his request absent proof of death, a privacy waiver, or proof of birth more than 100 years ago.

11. No further correspondence has received from defendants regarding this request.

12. Konigsberg has exhausted his administrative remedies.

13. Konigsberg has a legal right under the FOIA to obtain the information he seeks, and there is no legal basis for defendants' denial of said right.

14. Konigsberg is entitled to a waiver of search fees and copying costs.

SECOND CAUSE OF ACTION--NEWARK FIELD OFFICE

15. Plaintiff realleges the allegations set forth in Paragraphs 1-4 and 11-14 above.

16. By letter dated August 5, 2002, Konigsberg, through counsel, submitted a request to the FBI's Newark field office ("Newark") for records pertaining to H. Konigsberg.

17. By letter dated August 12, 2002, Newark returned Konigsberg's request to his counsel with instructions to complete an enclosed privacy waiver form and return it.

18. By letter dated August 17, 2002, Konigsberg appealed Newark's August 12, 2002 determination that he was required to ob-

tain a privacy waiver from H. Konigsberg before he could gain access to records on him.

19. By letter dated September 30, 2002, the Office of Information and Privacy ("OIP") denied Konigsberg's appeal.

THIRD CAUSE OF ACTION--NEW YORK FIELD OFFICE

20. Plaintiff realleges the allegations set forth in Paragraphs 1-4 and 11-14 above.

21. By letter dated August 5, 2002, Konigsberg, through counsel, submitted a FOIA request for records on H. Konigsberg to the FBI's New York field office ("New York").

22. By letter dated September 10, 2002, New York advised that it would require a privacy waiver or proof of death before it could commence processing Konigsberg's request.

23. By letter dated October 1, 2002, Konigsberg appealed New York's determination.

24. By letter dated October 18, 2002, OIP acknowledged receipt of Konigsberg's appeal and assigned it No. 03-0066.

WHEREFORE, Konigsberg prays that this Court:

(1) order defendants to make the requested information promptly available to him;

(2) order defendants to expeditiously prepare a Vaughn v. Rosen index justifying any redactions or withholdings.


(3) order defendants to waive search fees and copying costs;

(4) award plaintiff reasonable costs and attorney's fees as provided in 5 U.S.C. § 552(a)(4)(E) and/or 28 U.S.C. § 2412(d); and

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(5) grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James H. Lesar", is written over a horizontal line.

James H. Lesar #114413
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Counsel for Plaintiff

DATED: December 10, 2002